

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-2712

James B. Winke,

Appellant,

v.

Gerald C. Derby, acting as Temporary
Receiver of Progas Service, Inc.;
William Scott Power, attorney who
claims to have been counsel for Progas
Service, Inc.; Daniel P. Wilson, Judge
for Eighth Judicial District of Iowa in
and for Lee County at Fort Madison,
IA,

Appellees.

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Appeal from the United States
District Court for the
Southern District of Iowa

[UNPUBLISHED]

Submitted: April 27, 2005

Filed: May 18, 2005

Before MELLOY, McMILLIAN, and GRUENDER, Circuit Judges.

PER CURIAM.

James Winke appeals from the final judgment entered in the District Court¹ for the Southern District of Iowa dismissing his 42 U.S.C. § 1983 complaint. For reversal, he argues that the district court should have allowed him to amend his complaint. For the reasons discussed below, we affirm the judgment of the district court.

We review for abuse of discretion a district court's denial of a postdismissal motion to amend, see Niagara of Wis. Paper Corp. v. Paper Indus. Union-Mgmt. Pension Fund, 800 F.2d 742, 749 (8th Cir. 1986), and we find no abuse of discretion here. The conduct alleged in Winke's initial complaint did not amount to the violation of a constitutional or federal right for purposes of section 1983, and Winke's proposed amended complaint did not cure this defect. See Holloway v. Dobbs, 715 F.2d 390, 392 (8th Cir. 1983) (per curiam) (district court is justified in denying motion to amend where amended complaint could not survive motion to dismiss).

Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Charles R. Wolle, United States District Judge for the Southern District of Iowa.